IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.2252 OF 2005

Dhondiram Ramdas Purkar. ...Petitioner.
Vs.
The Union of India & Ors. ...Respondents.
....
Ms. P.P. Tendulkar with Mr. S. S. Karkera for the Petitioner.
Mrs. Neeta Masurkar for the Respondents.
.....

CORAM : A. P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 28, 2005.

P.C.:

Rule, by consent returnable forthwith. Counsel appearing on behalf of the Respondents waives service. By consent of Counsel and at their request taken up for hearing.

2. The Petitioner took voluntary retirement from service as a Junior Supervisor with Bharat Sanchar Nigam Ltd., on 1st March 2003. On retirement, he was entitled to the payment of retiral benefits and the grievance is that his dues amounting in all to Rs.5,20,462/- were paid only on 27th October 2003. The Petitioner moved the Central Administrative Tribunal on 28th May 2004 after his representations dated 24th June 2003, 26th September 2003,

29th January 2004 and 15th March 2004 did not meet with a desired response. The Tribunal dismissed the application on 1st February 2005 on the ground that it had no jurisdiction. These proceedings have thereupon been instituted under Article 226 of the Constitution. The submission which has been urged before the Court is that the Petitioner is entitled to interest on the delayed payment of his retiral dues.

3. An affidavit in reply was filed by the Assistant General Manager of Bharat Sanchar Nigam Ltd., before the Central Administrative Tribunal on which reliance has been placed before this Court by Counsel appearing on behalf of the Respondents. It has been averred therein that under Fundamental Rule 56 and Rules 38, 39, 40 and 48A of the Central Civil Service (Pension) Rules, 1972, a period of six months is allowed to the Department for settling the terminal benefits of a former employee who has taken voluntary retirement. In the present case, there was a delay of 55 days beyond the prescribed term of six months. In the affidavit in reply which was filed on behalf of Bharat Sanchar Nigam Ltd., it was stated that all the papers in connection with the retiral dues of the Petitioner were submitted on 24th July 2003 to

the A.O. (T.A.). It is stated that the Petitioner had availed of leave to the extent of 84 days though he was not entitled thereto and as a result thereof, the pension papers could not be processed in time. Moreover, it was averred that a House Building Advance which was taken by the Petitioner in the amount of Rs.70,000/- was paid back only in August 2002 and since the Insurance Policy had not been submitted after 1998, the department deducted an amount of Rs.5,750/- towards penal interest in accordance with governing rules. It has been stated that penal interest was levied under a Memorandum dated 20th May 1980 of the Central Government and the Petitioner had himself consented to the deduction on 17th July 2003. An order regularising the leave of the Petitioner is stated to have received on 5th June 2003 after which the pension papers were processed.

4. Having heard Counsel appearing on behalf of the contesting parties and having considered the defence that has been set up on behalf of the Respondents, we are of the view that there is no justification for the delay that has occurred beyond the stipulated period of six months after the date on which the Petitioner took voluntary retirement. If an amount of Rs.5,750/-

was required to be withheld on account of penal interest, there was no reason why this should have taken an inordinately long period of time and in any event there was no justification for withholding the balance of the dues. Moreover, even after the regularisation of the leave of the Petitioner on 5th June 2003, a period of almost four months elapsed before in the payment of retiral dues. There is no valid justification for the delay.

5. In these circumstances, we are of the view that the Petitioner is entitled to the award of interest for the period commencing from the expiry of six months from his retirement from service until the date on which the retiral dues were remitted to him. For the aforesaid period, the Petitioner shall be entitled to interest at the rate of 10% p.a. The Second and Third Respondents are directed to compute the amount which is due and payable to the Petitioner and to pay the same to the Petitioner within a period of two months from today. One of the prayers in the petition is in regard to a deduction of Rs.5,750/- on account of penal interest, but record that no submission has been urged before this Court in regard to the aforesaid prayer. The only submission which has been urged is in regard to the payment of

interest.

6. The petition shall accordingly stand disposed of. There shall be no order as to costs.

.....